

SCHOOLS: Senate Bill No. 4 of the 64th General Assembly  
JUNIOR COLLEGES: applies to junior colleges.

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Honorable Hubert Wheeler  
Commissioner, Dept. of Education  
Jefferson City, Missouri

Dear Mr. Wheeler:

This is in reply to your letter of recent date presenting the following question for the consideration and opinion of this department:

"Since junior colleges are organized in public school districts in this State, as provided in Section 10565, instead of specific laws creating state colleges and universities, would the requirement in Section 10374 for giving instruction in the Constitution of the United States and of the State of Missouri, and in American History, including the study of American institutions apply to junior colleges the same as for state colleges and universities?"

The provisions of Senate Committee Substitute for Senate Bill No. 4 of the 64th General Assembly, pertaining to this question, are found in the Laws of Missouri, 1947, Volume I, page 492, as follows:

Sec. 10373. "In all public and private schools located within the State of Missouri, except privately operated trade schools, commencing with the school year next ensuing after the passage of this Act, there shall be given regular courses of instruction in the Constitution of the United States and of the State of Missouri, and in American history, including the study of American institutions."

Sec. 10374. "Such instruction in the Constitution of the United States and of the State of Missouri, and in American history, including the study of American institutions, shall begin not later than the opening of the Seventh Grade, and shall continue in the high school courses and in the courses in state colleges and universities and, to an extent to be determined by the State Commissioner of Education."

This department ruled in an opinion to Mr. C. A. Phillips, Chairman of the Committee on Accredited Schools and Colleges, University of Missouri, Columbia, Missouri, dated August 7, 1947, that the courses in the Constitution of the United States and of Missouri, and in American history, including the study of American institutions, in accordance with Senate Committee Substitute for Senate Bill No. 4 of the 64th General Assembly, must be included in all grade schools, commencing with the seventh grade and continuing through high school, and in courses in state endowed colleges and universities, to an extent to be determined by the State Commissioner of Education.

Under the provisions of Section 10565, Laws of Missouri, 1945, page 1667, any public school district in this state which now has or hereafter may have a fully accredited high school may provide for two-year college courses in such schools, on the approval of and subject to the supervision of the State Board of Education. And according to Section 10567, R. S. Mo. 1939, any school districts making provision for the teaching of such college courses are entitled to participate in the regular apportionment of the public funds in accordance with the provisions of Section 10390, R. S. 1939 (as reenacted, Laws of 1947, page 497), as far as the same is applicable.

The question now arises as to whether such colleges commonly known and referred to as junior colleges are state colleges within the meaning of Senate Committee Substitute for Senate Bill No. 4, supra. Public schools are schools established under the laws of the state and maintained at the public expense by taxation. *Newman v. Schlarb*, 50 Pac. (2d) 36, l.c. 39 (Supreme Court of Washington). A public school is one that derives its support in whole or in part from moneys raised by taxation. *Cooke, County Superintendent of Schools, v. School Dist. No. 12*, 21 Pac. 496, l.c. 497 (Supreme Court of Colorado).

There is no question but that the junior colleges under consideration were established under the laws of this state and are maintained at least in part at public expense. Section 10373, supra, a general section, provides that said courses shall be given in all public and private schools. Section 10374, supra, is more specific in providing that such instruction shall begin not later than the opening of the seventh grade and shall continue in the high school courses and in the courses in the state colleges and universities. The terms "school" and "college" convey the same idea, differing only in grade. State v. Erickson, 75 Mont. 429, l.c. 441 (Supreme Court of Montana).

The fact that said junior colleges do not receive specific annual or biennial appropriations as such for their support, as do the University of Missouri, Lincoln University and the various state colleges, is of no significance since said junior colleges were established under the laws of this state, are subject to the supervision of the State Board of Education and receive the regular apportionment of public funds. It cannot be seriously contended that said junior colleges are private colleges in any sense of the word or fall in any other such classification. On the other hand, it is manifestly clear that they are state colleges within the legal contemplation of said Senate Committee Substitute for Senate Bill No. 4, supra.

#### Conclusion.

Therefore, it is the opinion of this department that Senate Committee Substitute for Senate Bill No. 4 of the 64th General Assembly, requiring instruction in the Constitution of the United States and of the State of Missouri, and in American history, including the study of American institutions, to be given in the state colleges and universities, applies to junior colleges established under the provisions of Section 10565, Laws of Missouri, 1945, page 1667.

Respectfully submitted,

APPROVED:

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